

Streamlining the Permit Process while Protecting Public Waters

Proposed Rule on Miscellaneous Structures - NR329

Summary of Rule Proposal

Wisconsin Act 118 created a three-tier permit system intended to speed permit decisions without reducing protection of fish and wildlife habitat, navigation, water quality and natural scenic beauty. Certain miscellaneous structures such as intake and outfall structures, pilings, and dry fire hydrants no longer need permits unless they are in designated waters. NR 329 sets specifications for when miscellaneous structures are exempt and creates general permits (GP) for other miscellaneous structures such as fords, sand blankets and boat ramps (other than those maintained as specified in previously issued permits).

Why is this an issue for public waters?

Thousands of different types of structures are placed in public waters annually. Some structures, such as fords constructed for the purpose of providing a good stable stream crossing for livestock and farm equipment can avoid suspension of silt and destruction of habitat when cattle or vehicles cross streams. However, fords can also harm fish spawning habitat and other aquatic organisms depending on where the ford is located, when and how it is constructed.

Poorly located, designed or constructed intake or outfall structures can cause similar harm to aquatic habitat, can be a boating hazard or affect natural scenic beauty.

Previous Regulation

Prior to Act 118, dating back to the early 1900's, most structures placed in public waters needed state review and approval. Permits were approved if DNR could determine "no detrimental impact to public rights."

What's Being Proposed?

NR 329 sets standards for exemptions for dry fire hydrants, intake and outfall structures, and piling. Exemptions are not allowed in "areas of special natural resource interest" (ASNRI) and must follow technical standards similar to those previously used for short form permits. The rule establishes general permits for these same projects in ASNRI.

NR 329 creates general permits for fords, mechanical weed rakes, and boat ramps in public waters. In addition to the general permits in the temporary rule, the Department is considering adding a general permit for sand or pea gravel blankets for recreational water activities in public.

Some design and location standards include but are not limited to:

- Designed and constructed to prevent structural failure caused by water velocity, wave, wind or ice action and shall be maintained in good condition at all times.
- Located within the owner's riparian zone of interest.
- May not result in a material obstruction or hazard to navigation.
- No treatment with wood preservatives or compounds that may be harmful to any fish or wildlife using the structure or a potential pollutant to the waterway.

Examples of specific location standards are:

FORDS.

- The width of the stream is less than 100 feet.
- The normal depth of the stream is less than 2 feet.
- The streambed does not contain over 6 inches of soft sediment.

Examples of ford design standards

- Consist of a 6 to 24 inch thick layer of 2 to 4 inch diameter rock or pre-cast reinforced concrete planks over a base of crushed rock with a total thickness not exceeding 24 inches.
- No more than 16 feet wide in a direction parallel to the flow of the stream.
- Top surface at the same level as the natural streambed immediately upstream and downstream from the ford. This means that the material installed cannot result in the creation of an impoundment or dam upstream or a waterfall or riffle area downstream.
- The approach road to the ford may not:
 1. Have bank slopes steeper than 5 feet horizontal to 1 foot vertical (5H:1V) toward the stream.
 2. Have side slopes exceeding 2 feet horizontal to 1 foot vertical (2H:1V).
 3. Be constructed in or across a wetland.
 4. Be raised above the elevation of the surrounding natural ground elevation within a mapped floodplain.
 5. Involve grading on the banks of the stream exceeding 10,000 square feet.
 6. Material excavated from the streambed or banks may not be placed in any surface water body or wetland and may not be placed in a floodplain where it will obstruct flood flows.
 7. May not result in the permanent or temporary deposition of fill in any surface water or wetland.

What do YOU think?

DNR seeks your input on the proposed rules. You can participate in one of several ways.

Fill out a written questionnaire at a public hearing **open house**.

Send comments over the **internet** at

<https://apps4.dhfs.state.wi.us/admrules/public/Rmo?nRmold=167>

Testify at a public hearing (see locations, dates and times by clicking on DNR's page, then on "Permits & Licenses," then "Waterway & Wetlands.")

Mail your written comments to Ms. Roberta Lund, DNR-FH/3, P.O. Box 7921, Madison, WI, 53707-7921.

Comments accepted through August 9, 2004